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OFFICE OF  
INSURANCE COMMISSIONER

*In The Matter Of*

OMNI INSURANCE COMPANY,  
OMNI INDEMNITY COMPANY, and  
TRUMBULL INSURANCE COMPANY,

Authorized Insurers

Order No. D07-329

CONSENT ORDER  
LEVYING A FINE

The Insurance Commissioner of the State of Washington, pursuant to the authority set forth in RCW 48.02.080 and RCW 48.05.185, and having reviewed the official records and files of the Office of the Insurance Commissioner ("OIC"), makes Findings of Fact and Conclusions of Law as follows:

**FINDINGS OF FACT:**

1. Omni Insurance Company, Omni Indemnity Company, and Trumbull Insurance Company (herein collectively referred to as the "Companies") are authorized insurers writing personal automobile insurance in the State of Washington.
2. OIC examiners conducted a market conduct examination of the Companies' operations covering the time period between July 1, 2004 and June 30, 2005. The examiners completed a Report of their examination and submitted it to the Insurance Commissioner.
3. The OIC examiners' report on the Companies' market conduct examination was adopted by the Insurance Commissioner in the "Findings, Conclusions, and Order Adopting Report of Market Conduct Examination," Order No. G06-68, entered December 4, 2006, which Order is final. Based on the results of the examination and the findings adopted in the OIC examiners' report, the following facts are hereby found as true:
  - a. 16 checks, claim forms and correspondence in claim files did not identify the insuring company or identified the wrong company, and 2 letters to insureds in underwriting files did not identify the insurer.
  - b. 147 policies were written through one licensee whose appointment had been cancelled.
  - c. 7 files lacked sufficient log notes or other information to reconstruct pertinent events and the dates of such events.
  - d. 7 claim files showed that the Companies failed to complete claim investigations within 30 days when such would have been reasonable.

- e. 4 automobile total loss claim files either failed to pay or failed to correctly pay license fees back to insureds. As a result of this finding, the OIC examiners requested the Companies to search their past files for similar errors. The Companies found 165 further such errors. As a result, the Companies paid a total of 169 insureds a cumulative refund amount of \$24,404.90.
- f. 1 PIP claim file wrongly denied part of a PIP claim for 'lack of information' when the information *was* actually already in the file. As a result of this finding by the OIC examiners, the Companies paid the insured an additional \$460.
- g. 2 letters did not include the specific written explanation of coverage that must be provided to all PIP insureds.

### **CONCLUSIONS OF LAW:**

1. By generating 18 documents not conducting business in the Companies' legal names, the Companies violated RCW 48.05.190(1).
2. By issuing 147 policies through a licensee with a cancelled appointment, the Companies violated RCW 48.17.160 and WAC 284-17-420(1).
3. By maintaining 7 files that failed to maintain sufficient information to reconstruct pertinent events and the dates of such events, the Companies violated WAC 284-30-340.
4. By failing to complete 7 claims investigations within 30 days when such was reasonable, the Companies violated WAC 284-30-370.
5. By failing to pay 169 insureds their license fees on total loss claims, the Companies violated WAC 284-30-3907(4).
6. By denying part of 1 PIP claim for the asserted reason that there was a lack of information, when in fact the information at issue was at all relevant times already in the claim file, the Companies violated WAC 284-30-330(1).
7. By issuing 2 letters which failed to provide PIP insureds with a written explanation of the coverage provided by the policy, including a notice that the insurer may deny, limit, or terminate benefits for certain specified reasons, the Companies violated WAC 284-30-395(1).

### **CONSENT TO ORDER:**

Omni Insurance Company, Omni Indemnity Company, and Trumbull Insurance Company (herein collectively referred to as the "Companies"), acknowledging their duty to comply fully with the applicable laws of the State of Washington, consent to the following in consideration of their desire to resolve this matter without further administrative or judicial proceedings. The Insurance Commissioner consents to settle the matter in consideration of the Companies' payment

of a fine, and upon the Companies fully carrying out their obligations under the Compliance Plan attached hereto as Exhibit A, and upon such terms and conditions as are set forth below.

1. The Companies consent to the entry of this Order, waive any and all hearing rights, and further administrative or judicial challenges to this Consent Order.
2. By agreement of the parties, the Insurance Commissioner will impose a fine of Fifty Thousand Dollars (\$50,000) and suspend Twenty-Five Thousand Dollars (\$25,000) of that, subject to the following conditions:
  - a. Within thirty (30) days of the entry of this Order, the Companies pay Twenty-Five Thousand Dollars (\$25,000).
  - b. The Companies commit no further violations of the statutes and regulations that are the subject of this Order for a period of two (2) years from the date this Order is entered, and also fully carry out their obligations under the Compliance Plan attached hereto as Exhibit A.
  - c. The Companies understand and agree that any future failure to comply with the statutes and regulations that are the subject of this Order constitutes grounds for further penalties, which may be imposed in direct response to further violation, in addition to the imposition of the suspended portion of this fine.
  - d. The suspended portion of this fine will be imposed at the sole discretion of the Insurance Commissioner according to the conditions as set forth above, without any right to hearing, appeal, or advance notice.
3. The Companies' failure to timely pay the unsuspended portion of the fine and to adhere to the conditions set forth herein shall constitute grounds for revocation of the Companies' Certificates of Authority, and shall result in the recovery of both the suspended and unsuspended amounts of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington.


EXECUTED and AGREED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_\_\_\_.

OMNI INSURANCE COMPANY

By: 

Printed Name: Bruce Ameson  
Typed Corporate Title: President

OMNI INDEMNITY COMPANY

By: 

Printed Name: Bruce Ameson  
Typed Corporate Title: President

TRUMBULL INSURANCE COMPANY

By: 

Printed Name: Richard G. Costello

Typed Corporate Title: Vice President, Corporate Secretary


**ORDER OF THE INSURANCE COMMISSIONER**

Pursuant to the foregoing Findings of Fact, Conclusions of Law, and Consent to Order, the Insurance Commissioner hereby orders as follows:

1. Omni Insurance Company, Omni Indemnity Company, and Trumbull Insurance Company (herein collectively referred to as the "Companies") shall pay a fine in the amount of Fifty Thousand Dollars (\$50,000), of which amount the sum of Twenty-Five Thousand Dollars (\$25,000) is suspended subject to the conditions set forth in the "consent to order" section above, including the conditions that the Companies fully comply with the laws and regulations of the State of Washington which are the subject of this Order for the next two years, and the further condition that the Companies fully carry out their obligations under the Compliance Plan attached hereto as Exhibit A.
2. The payment liability and compliance obligations of Omni Insurance Company, Omni Indemnity Company, and Trumbull Insurance Company under this Order are joint and several.
3. The Companies shall comply with and carry out the Compliance Plan set forth in Exhibit A hereto, which Compliance Plan is hereby incorporated into this Order by reference as though fully set forth herein; and
4. The Companies' failure to timely pay the unsuspended portion of the fine and to adhere to the conditions set forth herein shall result in the revocation of the Companies' Certificates of Authority and in the recovery of both the suspended and unsuspended amounts of the fine through a civil action brought on behalf of the Insurance Commissioner by the Attorney General of the State of Washington

ENTERED at Tumwater, Washington, this 29 day of December, 2008.

MIKE KREIDLER,  
Insurance Commissioner

By:   
Alan Michael Singer  
OIC Staff Attorney  
Legal Affairs Division

## **Exhibit A to Consent Order D07-329**

### **WASHINGTON COMPLIANCE PLAN**

Omni Insurance Company  
Omni Indemnity Company  
Trumbull Insurance Company

#### Introduction

This Exhibit outlines a Compliance Plan to ensure that the Washington business written by the Omni Insurance Company, the Omni Indemnity Company, and the Trumbull Insurance Company (hereinafter referred to collectively as the "Companies") is in compliance with Washington insurance laws and regulations. The plan encompasses two component parts: administrative actions and internal audits with reports to the OIC. This Exhibit is attached to a Consent Order as "Exhibit A" to that Order. This Exhibit is incorporated into that Order, and the obligations of the Companies under this Exhibit constitute obligations under the Consent Order to which it is attached.

#### Effective Date of Plan

The Companies have already undertaken the Administrative Actions listed in Part 1 below. The Companies' audits described in Part 2 below will cover a two year period, commencing the date the Consent Order is entered.

#### Part 1. Administrative Actions

As a result of the Market Conduct Examination that covered the period July 1, 2004 to June 30, 2005 ("Exam"), the Companies determined that additional administrative actions and direction for their staff were necessary for ensuring compliance with certain matters that arose in the Exam. The Companies reported having taken the following actions:

1. **Regarding violations for doing business in the company's own name, RCW 48.05.190:** The Companies provided claim handlers with written guidance reminding them of the requirement of referencing the true company name when sending out correspondence in connection with a claim. The Companies instructed claim handlers to manually look up the correct company name on the policy declarations page prior to sending out any claim forms or correspondence. Additionally the Companies began making programming changes so that the true company name will automatically print out on correspondence and claim forms, planned for implementation on or about December 1, 2006.
2. **Regarding violations for issuing policies with agents not appointed to represent the Companies prior to allowing them to solicit business on behalf of the Companies, RCW 48.17.160:** The Companies determined that one agency's license had been terminated in 2002 and the Companies' appointment had also been

terminated in accordance with the Companies' procedure. The agency secured a new license under a new name, but the Companies resumed doing business under the terminated appointment rather than a new appointment. The Companies determined that this was an isolated administrative error. Since this error, the Companies have made enhancements to their policy writing systems to capture issuing producer information. These systems are updated with a daily feed that validates agency appointment and licensing using the most current information available to the Companies. All policies issued are checked against the Companies' agency licensing and appointment records. Applications that do not match are manually reviewed to ensure proper appointment and licensing documentation exists.

3. **Regarding violations for failing to adequately document claim files, WAC 284-30-340:** The Companies determined that the 7 out of 100 found examples of insufficiently documented claim files were isolated events, but have provided additional written training materials to the claim handlers for Washington claims to ensure handlers are documenting the files more completely. The Companies have indicated that supervisors will be reviewing a random sample of claim files of each of the handlers to ensure compliance with WAC 284-30-340 is occurring.
4. **Regarding violations for failing to reasonably promptly complete claim investigations, WAC 284-30-370:** The Companies determined that the 7 out of 100 found examples of claim investigations not completed in a timely manner were isolated events, but have reviewed the requirements of WAC 284-30-370 with the claim handlers for Washington claims to ensure they are familiar with such requirements. Written training materials were also distributed to the claim handlers to reinforce this requirement. The Companies' supervisors will conduct periodic audits to ensure that handlers are more proactive in the handling of the claims.
5. **Regarding violations for failing to settle total auto losses in compliance with WAC 284-30-390 et seq:** After OIC's Exam uncovered 4 automobile total loss claim files in which the Companies either failed to pay or failed to correctly pay license fees back to insured, the Companies were instructed to review all total loss settlements, on files that closed from January 2003 to the end of the exam period and recalculate and pay any additional taxes and fees due to insureds, and report results to OIC examiners. The Companies reportedly identified a total of 165 additional claim files with such issues, resulting in additional payments totaling \$24,274.84. The Companies indicated that in the future, they would determine how to obtain license fee and tax information required to comply with these provisions.
6. **Regarding violations for failing to notify PIP insureds of PIP benefits, limitations, termination, and denial of PIP benefits in compliance with WAC 284-30-395:** In February 2006, prior to the Exam, the Companies identified non-compliant PIP letter template language and revised it to comply with WAC 284-30-395.

## Part 2. Internal Audits

In order to assess the effects of the Companies' Administrative Actions outlined above, and to properly address the violations found during the Exam, the Companies will each perform four consecutive audits of its compliance within categories of Washington statutes and regulations. The Companies will each perform these audits over the course of the above-referenced two year period. The Companies will each report audit results to OIC four times, each following the completion of each consecutive six-month audit. The audits will cover the categories of violations found during the Exam: (1) General – doing business in the company's own name, (2) Agent Activities—use of appointed agents, (3) Claim Settlement Practices—maintenance of adequate claim file information, (4) Claim Settlement Practices—reasonably prompt completion of claim investigation, (5) Claim Settlement Practices—reimbursement of license fees on total loss claims, (6) Claim Settlement Practices—settlement of automobile claims in accordance with standards established for prompt, fair and equitable claim settlements, and (7) Claim Settlement Practices—required notification to PIP insureds regarding PIP benefits, limitations, termination, and denial of PIP benefits. Audits will be performed consistent with the "Internal Audits Plan" table contained herein (see "Attachment 1").

The Companies will each summarize and report each's audit results using the "Internal Audit Results" form also contained herein (see "Attachment 2"). As indicated in Attachment 2, the Companies will each undertake appropriate remedial action for each exception found within any audit. The Companies are also invited and encouraged to supplement completed forms with other reports, forms, tabulations, data summaries, or other information-containing media that help relate the audit results to OIC in a meaningful manner. All audit results, forms, summaries, and other materials will be completed and provided to OIC within thirty (30) calendar days of the end of each six-month audit period. In addition, when the Companies submit to OIC the results of the first audit, the Companies will each also include a separate audit addendum explaining and describing: (1) the Companies' history of similar violations in Washington and elsewhere; (2) other state insurance regulators' responses to the Companies' similar violations, including any fines or monetary penalties previously assessed elsewhere; (3) each corrective action the Companies have previously taken in Washington and elsewhere to remedy each's history of similar violations; (4) a measurement of the success or failure of each corrective action the Companies have previously taken to remedy its history of similar violations; and (5) verification that the Companies' current efforts under this Compliance Plan are expected to prevent similar violations from occurring in all states where the Companies conduct business. All audit reports, completed Internal Audit Results forms, summaries, and other related materials, along with any questions, will be made to OIC through the following:

ATTN: Ms. Christine Tribe, Office of the Insurance Commissioner  
PO Box 40255  
Olympia, WA 98504-0255  
(360) 725-7061  
ChrisT@OIC.WA.GOV

# Consent Order D07-329

Attachment 1 to Exhibit A

## WASHINGTON COMPLIANCE PLAN

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Omni Insurance Company

Omni Indemnity Company

Trumbull Insurance Company

AUDIT CATEGORY	REGULATION OR STATUTE CITED	TITLE OF PERSON AUDITING	ITEMS REVIEWED	TIME PERIOD REVIEWED	SAMPLING TECHNIQUE <sup>1</sup>	WHEN STARTED	HOW DONE	FOLLOW-UP
General—doing business in the company's own name	RCW 48.05.190(1)	TBD		SIX MONTHS	Describe the "random" sampling methods used and to be used			<ul style="list-style-type: none"><li>• Describe the instruction given</li><li>• Provide copies of the written guidance given</li><li>• Provide details of the "programming changes" implemented and what difference they make</li></ul>
Agent Activities—use of appointed agents	RCW 48.17.160(1) and WAC 284-17-420(1)	TBD		SIX MONTHS	Describe the "random" sampling methods used and to be used			<ul style="list-style-type: none"><li>• Provide details of the "additional internal review" conducted</li><li>• Provide details of the Companies' "policy writing systems" and "enhancements" thereto</li></ul>
Claim Settlement Practices—maintenance of adequate claim file information	WAC 284-30-340	TBD		SIX MONTHS	Describe the "random" sampling methods used and to be used			<ul style="list-style-type: none"><li>• Provide copies of the additional written training materials provided</li><li>• Provide details of the Companies' supervisors' reviews conducted, and the results thus far</li></ul>

<sup>1</sup> The Companies should also describe how the sampling methods they use give rise to statistically valid or reasonably representative samples.



# Consent Order D07-329

Attachment 1 to Exhibit A

## WASHINGTON COMPLIANCE PLAN

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Omni Insurance Company

Omni Indemnity Company

Trumbull Insurance Company

AUDIT CATEGORY	REGULATION OR STATUTE CITED	TITLE OF PERSON AUDITING	ITEMS REVIEWED	TIME PERIOD REVIEWED	SAMPLING TECHNIQUE	WHEN STARTED	HOW DONE	FOLLOW-UP
Claim Settlement Practices—reasonably prompt completion of claim investigation	WAC 284-30-370	TBD		SIX MONTHS	Describe the “periodic audits” conducted and the sample selections chosen to ensure representative samples are used			<ul style="list-style-type: none"> <li>• Provide copies of the additional written training materials provided</li> <li>• Provide details of the Companies’ supervisors’ periodic audits conducted, and the results thus far</li> <li>• Provide details of how the Companies reviewed the requirements of WAC 284-30-370 with handlers</li> </ul>
Claim Settlement Practices—reimbursement of license fees on total loss claims	WAC 284-30-3907(4)	TBD		SIX MONTHS				<ul style="list-style-type: none"> <li>• Unless provided already, provide documentation regarding the files examined and refunds made – have all needed refunds been made?</li> <li>• Provide details of how the Companies will obtain and use the licensing and tax information to comply with WAC 284-30-390 <i>et seq</i></li> </ul>

# Consent Order D07-329

Attachment 1 to Exhibit A

## WASHINGTON COMPLIANCE PLAN

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Omni Insurance Company

Omni Indemnity Company

Trumbull Insurance Company

AUDIT CATEGORY	REGULATION OR STATUTE CITED	TITLE OF PERSON AUDITING	ITEMS REVIEWED	TIME PERIOD REVIEWED	SAMPLING TECHNIQUE	WHEN STARTED	HOW DONE	FOLLOW-UP
Claim Settlement Practices—settlement of automobile claims in accordance with standards established for prompt, fair and equitable claim settlements	WAC 284-30-330	TBD		SIX MONTHS	Describe sample method chosen to ensure a representative sample of randomly chosen files complies with pertinent claim settlement standards			
Claim Settlement Practices—required notification to PIP insureds regarding PIP benefits, limitations, termination, and denial of PIP benefits	WAC 284-30-395(1)	TBD		SIX MONTHS				<ul style="list-style-type: none"><li>• Are letters now used in compliance with WAC 284-30-395(1)?</li><li>• Provide a sample letter now in use</li></ul>

**Consent Order D07-329**

Attachment 2 to Exhibit A

**Omni Insurance Company  
Omni Indemnity Company  
Trumbull Insurance Company  
Internal Audit Results**

***State of Washington Compliance Plan***

Audit category: \_\_\_\_\_

Name of auditor: \_\_\_\_\_

Title of auditor: \_\_\_\_\_

Auditor's phone or e-mail: \_\_\_\_\_

Time period reviewed: \_\_\_\_\_

Date audit completed: \_\_\_\_\_

Date by which this form  
is to be completed: \_\_\_\_\_

Date by which next audit  
is to be completed : \_\_\_\_\_

Identify the number of files reviewed and the sampling technique used:

Items were reviewed for compliance with the following statutes and/or regulations  
of the State of Washington:

Number of exceptions found ("Exceptions" is defined as conduct not in compliance with the State of Washington statutes and regulations listed above):

If any exceptions were found, list the policy number(s) and describe the Exception(s):

If any exceptions were found, describe the remedial action(s) that will be taken and the date by which they will occur:

Signature: \_\_\_\_\_

Date: \_\_\_\_\_